

**PLANNING AND ZONING COMMISSION  
STAFF REPORT**

**June 18, 2009**



**Conditional Use Permit CU 09-08: Robert McCleery**

**CASE DESCRIPTION:** a request for approval of a Conditional Use Permit to allow a residence in a Commercial District (C-3)

**LOCATION:** 4804 North Texas Avenue, being 0.3436 acres of land adjoining the southwest side of North Texas Avenue between Woodville Road and North Earl Rudder Freeway (State Highway 6), specifically occupying parts of Lot 4 of the Saladiner Subdivision No. 2 in Bryan, Brazos County, Texas

**ZONING:** Commercial District (C-3)

**EXISTING LAND USE:** Residential

**APPLICANT(S):** Robert McCleery

**STAFF CONTACT:** Randy Haynes, Staff Planner

**SUMMARY RECOMMENDATION:** Staff recommends **approving** this Conditional Use Permit.

**LOCATION MAP AND AERIAL PHOTOGRAPH (2008):**

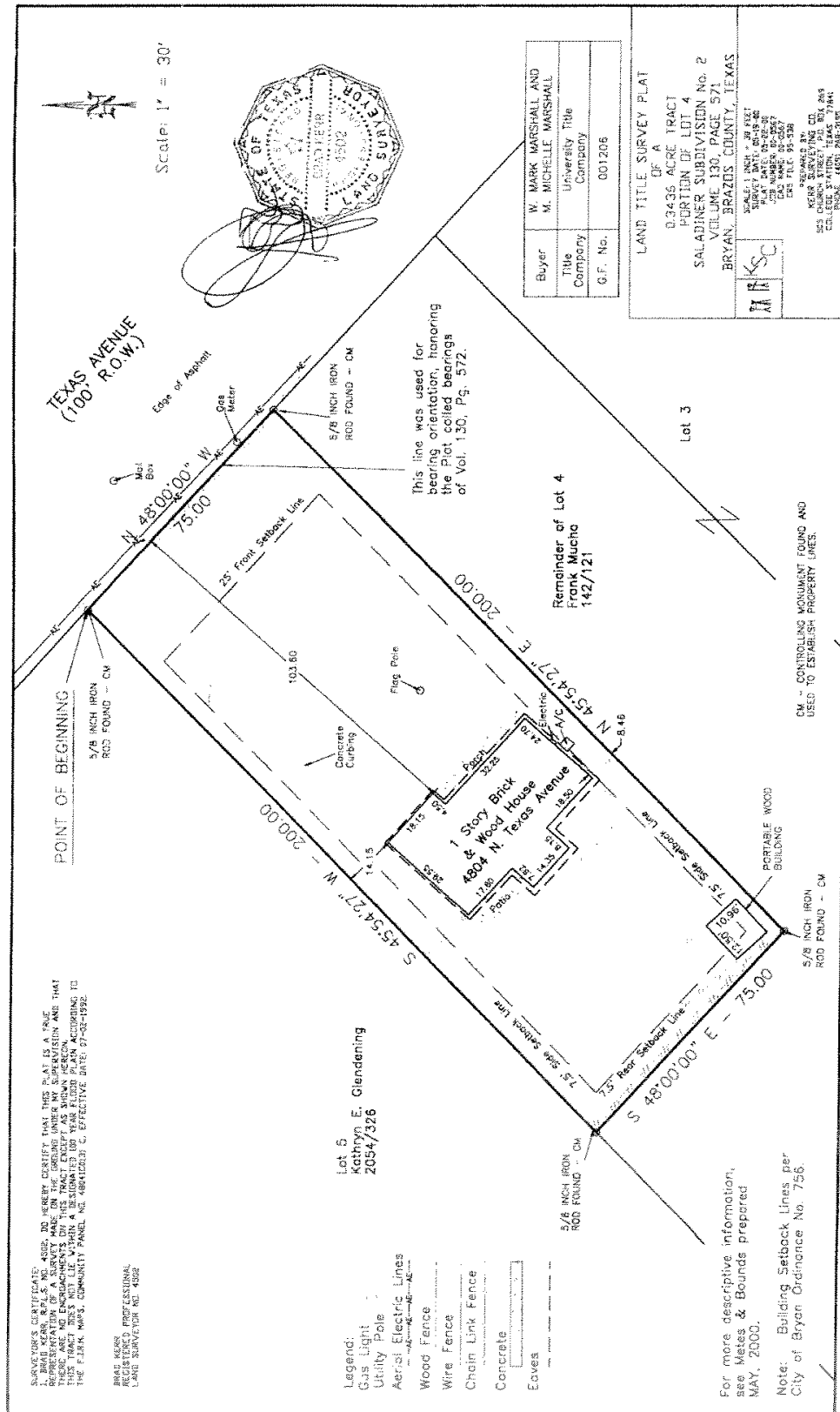


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Please list the reasons for this conditional use permit request:

We are attempting to sell this property. Due to the current economic situation, persons interested in buying the home are having difficulty procuring a home loan for a residence built on a commercially zoned property. The Conditional Use Permit would fulfill the lender's requirement that the property is in fact a residence and the loan money is not being used to purchase a commercial property.

# SITE PLAN:





**RECENT PHOTOGRAPH:****BACKGROUND:**

The subject property is located in an area zoned Commercial District (C-3). The existing residence has been on this site since at least 1955. The parcel was originally subdivided for residential use in 1950. Earlier this year, the applicant began the process of selling the property. As part of the due diligence process, the mortgage broker requested zoning verification and the property's legally non-conforming status was revealed. Because of this zoning status, replacement of the residential use would not be permitted if more than 60% of the structure is destroyed. The applicant is requesting approval of a Conditional Use Permit to ensure the right to residential use on this subject property. If approved, the structure could be restored to residential use if damaged or destroyed.

**RELATION TO BRYAN'S COMPREHENSIVE PLAN:**

Owing to the fact that Bryan developed without zoning for most of its history, clear development patterns are not always distinguishable. Older neighborhoods are occasionally sprinkled with small commercial areas containing scalable storefronts, offices and service uses. This pattern, although prohibited by most modern Euclidian zoning codes was not viewed as altogether undesirable by the Bryans residents who participated in the Comprehensive Plan input process. The Plan specifies that low density residential uses should not be located adjacent to major arterials and freeways without adequate buffering and access management. The subject property has over 120 feet for frontage along North Texas Avenue, an arterial roadway.

**ANALYSIS:**

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

**The existing residence appears to conform to all applicable regulations and standards established by the Zoning Ordinance and the Land and Site Development Ordinance for residential use. No variations from those standards are being requested.**

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

**Staff believes that the residence on the subject property is compatible with existing uses on abutting sites, most of which are currently in single-family residential use.**

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

**Staff believes that, in this particular case, residential use at this location does not create greater unfavorable effect or impacts on abutting properties than commercial development allowed by right on this property without Conditional Use Permit approval.**

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

**Staff contends that the existing residence at this location does not have adverse effects on vehicular and pedestrian traffic in this vicinity.**

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

**Any new development on this property, including replacement of the single-family residence, would be required to meet City regulations concerning erosion, flood, fire and other hazards and impacts.**

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

**Staff contends that the residence at this location does not have any adverse effects on traffic control or adjacent properties.**

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

**Adequate parking for the existing residence is in place.**

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

**The C-3 District is intended for many general commercial uses such as retail and office establishments. However, single-family residences are potentially allowed with approval of a**

**Conditional Use Permit to allow residential development in areas zoned for commercial purposes, but for whatever reason historically, have not developed into commercial areas. Staff contends that, in this particular case, the proposed single-family residence is more compatible with the character in this general area than many uses allowed by right within this commercial zoning district.**

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

**Staff believes the continued residential use will produce no negative effects on properties or improvements in the vicinity.**

10. Whether the premises or structures are suitable for the proposed conditional use.

**The property is currently in residential use and no changes are proposed or required.**

#### **RECOMMENDATION:**

Based on all these considerations, staff **recommends approving** the Conditional Use Permit, as requested.